

**BURNT HILLS-BALLSTON LAKE
CENTRAL SCHOOL DISTRICT
ADVISOR & OFFICER HANDBOOK**

**Extra Curricular Activities
(Updated March 2018)**

RELATIONS BETWEEN THE PUBLIC AND STUDENTS

P5251

1. Solicitation of Funds

The Burnt Hills-Ballston Lake Central School system may cooperate in area fund drives as permitted by the Regulations of the Commissioner. Other charities may place containers in areas other than the classroom for voluntary contributions with the prior approval of the Superintendent of Schools.

2. Non-School Sponsored Contests

Except for athletic events, the building principal shall be responsible for approving all contests for pupils.

Contests will be evaluated in relationship to the benefits accrued by the pupils and their reflection on the school district.

RESTRICTIONS ON FUNDRAISING FOR STUDENT ACTIVITIES

All fund-raising by school sponsored groups (i.e. clubs, classes, teams, music groups, etc.) must be approved by the faculty sponsor and the building principal in writing prior to a commitment to the project. Once a commitment to raise funds for an approved educational activity is made, the proposed use of the funds raised by students cannot be altered without the consent of the building principal, the faculty sponsor, and a two-thirds majority of students who engaged in the fund-raising activity.

Amounts to be raised should not exceed the estimated cost of the specified trip or activity. When targeted amounts have been raised, fund-raising should be terminated. All funds raised as a result of such projects must be deposited in the group's Extra-class Activity Fund account, and all claims associated with the planned activity must be paid for from this account.

The door-to-door sale of products to adults in the community can adversely affect school-community relations. Such direct public sales must be held to a minimum. Because young children are exposed to unnecessary dangers by public door-to-door fund-raising, elementary students will not be permitted to participate in school-related door-to-door fund-raising projects. Door-to-door sale to adults may be sponsored at the secondary level with approval from the building principal or the K-12 department head. A direct solicitation of public donations will be considered to be the same as a public door-to-door sale. These restrictions do not apply to a charge for student services, admission to student programs, or in-school sales to students or adults as long as door-to-door solicitation is not involved.

Revised May 2007
Renumbered from P1320 – September 2015

Revised April 2011
Renumbered from P5231 – September 2015

MANAGEMENT OF STUDENT ACTIVITY FUNDS

P5252

In those organizational activities of the students where funds are required to meet the purposes of the organization, the funds will be administered by the students with the approval of the assigned faculty advisor and the building principal.

Funds will be maintained, accounted for and audited separately for each organization and under the conditions of the Regulations of the Commissioner of Education.

Any Extra-Class Activity Fund for an organization which has ceased to exist will be deemed to be inoperative and any remaining balance in such account will be transferred to the general student government or student council account within the Extra Class Activity Fund at the school where the account originated.

Interest earnings from temporary surplus balances of the Extra-Class Activity Fund will be credited to the respective general student government or council account in proportion to the amount of such funds on deposit from each school at the time of investment.

Reviewed January 2011

Renumbered from P5230 – September 2015

Explanation of the Extra Classroom Activity Fund

- The extra classroom activity club should provide learning experiences in the business procedures needed to safeguard the collection, deposit, and disbursement of money along with the filing of sales tax revenues.
- The Regulations of the Commissioner of Education were formulated not only to safeguard the funds of the organization but also to provide schools with the opportunity to teach pupils good business procedures through participation in handling such funds and operating a successful business. For many students, this may be the only business training they will receive in school.
- Extra classroom activity funds are derived from a number of sources such as admissions, membership dues, sales and donations. A determination should be made as to whether the activity will be subject to NYS sales tax and an estimate should be obtained as to the amount of money collected to make the activity profitable.
- A school district is not exempt from the provisions of the Sales Tax Law whenever it becomes the vendor of services or property ordinarily sold by private persons. Each faculty advisor should know which of the activities an organization undertakes are subject to sales tax and take steps to see that all sales tax information is accurately recorded and sent to the central treasurer. When student organizations purchase merchandise for resale, vendors selling the resale merchandise are required to collect sales tax from the buyer of the merchandise unless they receive a resale certificate from the buyer. A resale certificate is enclosed in this packet and a supply will also be maintained by the central treasurer in your building. A list of frequently used activities is attached (exhibit A) which will be a useful tool for deciding whether an activity is tax exempt or not.
- An extra-class club should have the following members:
 - An advisor
 - A Treasurer
 - A President and/or vice president
 - A Secretary
 - An SGO Representative (not mandatory)

You should give the names of these individuals to the main office secretary (Laura Weaver in the High School; Judy Doepel in the Middle School) after elections have taken place and prior to leaving for summer. This will allow the main office secretary to update her records over the summer in preparation for the new school year. *The High School has a Google Document that can be updated with this information-contact Laura Weaver for information.

EXTRA CLASS STEP BY STEP PROCEDURE

1. **Decide on the fundraiser**
2. **Begin the Budget/Profit & Loss Statement**
3. **Is it taxable**
4. **Order the goods/services (Purchasing)**
5. **Pay for the goods and services (Payments)**
6. **Have the sale or event**
7. **Make the deposits (Deposit of Money)**
8. **Complete the Budget/Profit and Loss Statement and turn into main office secretary (Laura Weaver-HS; Judy Doepel-MS)**

Purchasing

Money may be spent by student organizations in any reasonable manner they see fit. It is recommended that a purchase order be issued for all purchases. When purchasing an item you should follow the following steps:

1. First contact the company to get a quote for the product you are looking to purchase. Ask the company if they accept purchase orders. We encourage you to use companies that accept purchase orders. Obtain the companies name and address where they would want payment made. Ask them if they prefer the purchase order be mailed or faxed. Fill out a purchase order form and give to main office secretary with a copy of the quote attached. Keep a copy for your club records. (see exhibit B)
2. The main office secretary will send to the business office for processing. When it is approved a copy of the purchase order will be returned to the building secretary.

Payments

When bills are to be paid, the student activity treasurer should take the following steps:

Payments for items purchased directly:

Fill out an Extra Class check request (see exhibit C) form obtaining all the required signatures and payment information.

Attached to the check request should be an itemized receipt for any items purchased including any taxes paid. Taxes are reimbursable from Extra Class.

When paying an individual rather than a business for a service you will need to ask the individual to sign a PO/Vendor draft and we should have a W-9 form on file. An example might be you hire a DJ who operates as an individual not as a business. We need to have the W-9 tax purposes. Your main office secretary can contact the business office to confirm a W-9 is on file and if not we can supply a blank for signature.

Payments for goods ordered and received:

When you receive the items and are sure you have everything you ordered, you should send the packing slip and invoice along with an Extra Class check request (see exhibit C) form to your main office secretary so the company can be paid.

Note: Checks are usually received at the building on Fridays that are not paydays. Clubs should plan on a two week turn around to receive checks from the district office. If a check is needed for a deadline, please plan ahead.

Deposit of Money

After the money has been turned in to the student activity treasurer, properly checked by him or her and the faculty advisor do the following:

1. Complete deposit receipt in duplicate (see exhibit D).
2. Both slips should be turned in to main office secretary.
3. Be sure you have indicated a TOTAL of the deposit.
4. Be sure you have indicated whether the deposit was for a taxable sale by circling Y or N.
5. If you need coin or bill wrappers, you can obtain at the main office.
6. Deposits slips will be verified by the main office secretary and a signed copy will be given to the class advisor for placement in the club accounting book.

ACCOUNTING

1. Account books are stored in the Main Office.
2. Entries should be made to the preprinted ledger by the club treasurer.
3. Advisors should check periodically to be sure that account entries are up to date.
4. Accounts are checked and interest is posted at least once a year. You will need to verify accounts and balance with the main office secretary prior to leaving for the summer!

CHECKS

1. When accepting checks for fund raisers, etc..., they should be made payable to BH-BL CSD. Please be sure that checks are dated correctly and that "payable to" and amounts are filled in properly.
2. Any check returned by the bank due to insufficient funds will be subtracted from the Extra Class account until a replacement payment is received. The advisor may be asked to make a phone call, and the Main Office will send a letter in an attempt to collect.

BUDGET/PROFIT & LOSS REPORT

At the conclusion of the sale/fund-raiser the budget/profit and loss report (see exhibit E) should be completed and turned in to the main office secretary. This should be done in a timely manner.

INACTIVE ACCOUNTS

Accounts sometimes become inactive due to lack of student interest or because a graduating class leaves an unused balance. In the case of a graduating class, the class should meet prior to the end of the school year and complete an Extra Class year End dissolution of Exiting Class Account Form (see exhibit F).

Extraclassroom activity funds are derived from a number of sources such as admissions, membership dues, sales and campaigns, and donations.

Donations

Any gifts or donations should be recorded in the meeting minutes of the club and a receipt should be issued and given to the donor. A copy of this receipt should accompany the deposit.

Membership Dues

The pre-audit of membership dues should be relatively easy if plans are carefully worked out in advance. Provide pre-numbered receipts or membership cards as proof of paid memberships.

Admissions

Various methods may be employed to insure accurate pre-audit of admissions. Usually pre-numbered tickets should be used so that the auditor may, by reference to the beginning and ending numbers, determine the amount, which should be collected.

Inventory Control

Items on-hand and held for resale or return should be adequately safeguarded against loss, theft or damage by securing them in an appropriate location with limited access.

Taxable Fundraisers

Extra Class / Club Accounts are subject to New York State Sales Tax for **ALL taxable** fundraisers. A financial record (statement of Budget-Profit and Loss) should be kept for all deposits and expenses associated with ALL fundraisers. The statement of Budget-Profit and Loss Statement should be kept with your club records and in the case of **taxable** fundraisers the form **must** be submitted to the main office secretary (Mrs. Weaver HS, Mrs. Doepel MS). A Statement of Budget-Profit and Loss has been added to your account books in the HS to use when completing a taxable or non-taxable fundraiser. You don't have to collect tax during the fundraiser. The District Office Treasurer will let the main office know how much tax is taken out of your account and the main office secretary will send a copy of the Budget-Profit and Loss Statement to the advisor showing the amount of tax charged in the bottom right-hand corner. This amount should be entered into your club account books by the club's treasurer.

Not all fundraising is taxable (see samples below). When pricing your items for re-sale, roughly 7% HS and 8% MS, will be going to pay tax for taxable fundraisers. You may want to increase the price of the items you are selling based on this information. When Vendors **charge you tax** up front when purchasing their items for resale, we only pay taxes on the **profit** made on the fundraiser (no Resale Certificate given to vendor, and the Receipt obtained from the Vendor would show that taxes were paid). When Vendors **do not charge you tax** up front when purchasing their items for resale, we pay taxes on the entire amount collected (a Resale Certificate required and Receipt obtained from Vendor would show no taxes paid). Please see example given below regarding taxes. If you have questions, please feel free to ask me (Mrs. Weaver-HS; Mrs. Doepel-MS).

Sample of Taxable Fundraising:

Candy, soda and soft drinks (which contains less than 70% natural fruit juice)
Chicken BBQ, pizza, chicken, popcorn, coffee, tea, etc. (maintained in a heated state)
Admission charges such as dances (drama or musical arts performances are exempt)
Shrubs, plants and trees; car washes; jewelry; magnets

Sample of Non-taxable Fundraising:

Bake sales, water
Newspapers, magazines
Pre-packaged popcorn, potato chips, pretzels

Example:

- A. You buy \$1,000 worth of candles from company ABC. You give company ABC a Resale Certificate and company ABC doesn't charge you tax and gives you a receipt showing the purchase of:

100 candles @ \$10 each = \$1,000.00

Your club sells 100 candles for \$15.00 each = \$1,500.00

Your EC account will be charged tax on the entire sale price

Sale Price \$1,500.00

7% tax \$ 105.00

The district will deduct \$105.00 from your EC Account for tax on this fundraiser.

Total tax paid = \$105.00

- B. You buy \$1,000 worth of candles from company ABC. Company ABC charges you tax. You don't provide them with a Resale Certificate and your receipt shows the purchase of:

100 candles @ \$10 each = \$1,000.00

7% tax = \$ 70.00

Total Sale = \$1,070.00

You club sells 100 candles for \$15.00 each = \$1,500.00

Your EC account will be charged tax on the profit (\$1,500 less \$1,000 = \$500)

Profit \$500.00

7%tax \$ 35.00

The district will deduct \$35.00 from you EC Account for tax on this fundraiser.

Total tax paid= \$105.00 (\$70 up front and \$35 after resale)

****Note: Regardless of which option you choose the tax will always be the same.**

SALES TAX

EXHIBIT A

Sale of Candy, Soda and Soft Drinks	Taxable, except for certain drinks.	Tax Law §1115(a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to candy, sodas or soft drinks, and fruit drinks that contain less than 70% natural fruit juice.
Spaghetti dinners and catered meals TB-ST-806	Taxable	Tax Law §1115(a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to catered situations, where the students of the club would be serving, assisting in serving, cooking, or otherwise providing services with respect to the food items in question.
Bake Sales TB-ST-103	Non-Taxable.	Tax Law §1115(a) (1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. This provision exempts bake sales from the collection of sales tax.
Vending Machine Sales – Food Items TB-ST-280	Taxable, generally.	Where tables, chairs, benches, etc. are provided where the vending machine operations are conducted, the sales through the vending machine are taxable. Where no eating facilities are provided, the sales are exempt from sales tax.
Pizza, Chicken, Popcorn, Coffee, Tea, etc. TB-ST-806	Taxable.	All sales of prepared food sold in a heated state (where the food is maintained at a temperature warmer than surrounding air temperature) are subject to sales tax, including those sold for off-premises consumption.
Admission Charges TSB-M-06(15)S	Taxable, except for certain events.	Exemption is provided from sales tax for admissions to dramatic or musical arts performances, which do not include variety shows, magic shows, circuses, ice shows, dances, and similar performances. Included in the exemption is an admission charge to choreographed performances to music, which may exempt color guard admissions.
Sale of Newspapers and Magazines	Non-Taxable.	
Sale of shrubs, plants and trees	Taxable.	
Sale of Yearbook TSB-A-08(42)	Taxable, generally.	If the entire cost of the yearbook is underwritten by the Board of Education and the revenue is recognized as a General Fund item, the sale becomes an exempt transaction, not subject to sales tax.
Sale of Yearbook Advertising Space	Non-Taxable.	
Sale of Sweatshirts, T-shirts, Jackets, Jewelry	Non-Taxable up to 110.00	Tax Law §1105(a) provides that sales tax is imposed on the sale of tangible personal property, however publication 718-C states that clothing sold for humans for less than \$110 per item is exempt from NYS tax.
Book Store Sales	Taxable.	Unless specifically exempt.
Pre-packaged Popcorn, Potato Chips, Pretzels	Non-Taxable, generally	When packaged and sold in a cold state, prepackaged snack foods are exempt. This exemption does not apply to caramel or other candy coated snack foods.
Hair Cuts and Styling	Non-Taxable.	The cutting and styling of hairpieces is not included in this exemption.
Repair/Maintenance Services, Car Washes	Taxable, generally.	An exemption is provided for the repair, maintenance or service of farm machinery.
Jewelry	Taxable.	

Burnt Hills-Ballston Lake CSD

PO Draft/Vendor Claim

(Not a Purchase Order)

PO # _____

Vendor:

EXHIBIT B

ABC Candle Company
 street to mail payment to
 city, state zip to send payment to
 phone number

Date: <u>date</u>	Fund: <u>E</u>	Trans. Code <u> </u>
Code: <u>E2110-450-10-2012</u>	Amt. <u> </u>	<u>\$800.00</u>
Code: <u> </u>	Amt. <u> </u>	
Code: <u> </u>	Amt. <u> </u>	
Vendor# <u> </u>	Total <u> </u>	<u>\$800.00</u>
Invoice # <u> </u>		

Ship to: BHBL CSD-Building Name
 Building Address
 Attn: Advisor Name
 Advisor extension

Ordered for: name of extra class club

Quantity or Unit		Unit Price	Total
100	candles for extra class club E2110-450-10-2012 You should write the following on your purchase order: Please send Purchase order by Fax Number: 1-555-555-5555 or Please send Purchase order by mail to the address listed above for the vendor <p align="center">ATTACH COPY OF QUOTE</p> <p align="right">Shipping</p>	\$8.00	\$ 800.00
	Total		\$ 800.00

PO Draft Signatures:

 Approved Program Director or Principal

 Approved School Business Administrator

I hereby certify that the above is a true and accurate claim. All services have been rendered and all merchandise delivered. No considerations have been made other than those shown above.

 Social Security #

 Signature of Vendor or Legal Agent

CHECK REQUEST FORM This form must be completed in black or blue ink.

EXHIBIT C

C
u
t

h
e
r
e

*This part stays
in your book.*

*This part gets turned in to Mrs. Weaver at the HS
or Mrs. Doepel at the MS*

No. _____ EXTRA-CLASS ACTIVITY FUND No. _____

Burnt Hills - Ballston Lake Central Schools

Pay to the order of:
ABC Candle Company

TO: CENTRAL TREASURER, EXTRA-CLASS ACTIVITY FUND

Pay to the order of ABC Candle Company

For Homecoming _____

for Candle Sales

(T)

IF TAXABLE PUT IN T

\$ 800.00

the sum of Eight Hundred dollars

\$ 800.00

from account:
E2110-450-10-2012
Class of 2012

from the account of E2110-450-10-2012 Class of 2012

Date _____
Put in Date

Sign _____
President

Sign _____
Treasurer

Date _____
Put in Date

Sign _____
Faculty Advisor

IMPORTANT: Be sure to include vendor's complete address on back.

EXTRA CLASS DEPOSIT RECEIPT

Date: _____

Account # _____

Source (Ex: bake sale): _____

Account Name: _____

Checks Total: _____

Taxable: Y or N (please circle one)

Currency:

\$100.00	_____
\$50.00	_____
\$20.00	_____
\$10.00	_____
\$5.00	_____
\$1.00	_____

Prepared by: _____
(Activity Treasurer)

Coins:

\$0.25	_____
\$0.10	_____
\$0.05	_____
\$0.01	_____

Reviewed by: _____
(Activity Advisor)

Checked by/ date: _____
(Central Treasurer)

TOTAL:

Need 2 originals prepared and turned in to Main Office

Central Treasurer

**Extra Class Clubs at High School turn in to Mrs. Weaver

**Extra Class Clubs at Middle School turn in to Mrs. Doepel

EXTRA CLASS DEPOSIT RECEIPT

Date: _____

Account # _____

Source (Ex: bake sale): _____

Account Name: _____

Checks Total: _____

Taxable: Y or N (please circle one)

Currency:

\$100.00	_____
\$50.00	_____
\$20.00	_____
\$10.00	_____
\$5.00	_____
\$1.00	_____

Prepared by: _____
(Activity Treasurer)

Coins:

\$0.25	_____
\$0.10	_____
\$0.05	_____
\$0.01	_____

Reviewed by: _____
(Activity Advisor)

Checked by/ date: _____
(Central Treasurer)

TOTAL:

Need 2 originals prepared and turned in to Main Office

Central Treasurer

**Extra Class Clubs at High School turn in to Mrs. Weaver

**Extra Class Clubs at Middle School turn in to Mrs. Doepel

(A) Budget
 (B) Statement of Profit and Loss

Rev. 9/2016
 EXHIBIT E

* complete section A prior to sale or event; complete section B at completion of sale and turn into main office secretary

(A) Today's Date: _____
 Club Name _____
 Activity Planned _____ Activity Date(s) _____

Indicate one: _____ Fund Raising Event _____ Service Project _____ Other _____

Anticipated Revenue (expected) \$ _____
 Anticipated Expenses (expected) \$ _____
 Anticipated Profit (expected) \$ _____

(B) Is this Fundraiser Subject to NYS Sales Tax? Yes or No (Circle One)

Actual Revenue (Income)

Receipt Number	Receipt Date	Description of Sale	Ticket Numbers		Total # Sold	Sale Price Per Item	Total Receipt Amount
			From and Including	To and Including			

Total Receipts \$0.00

Actual Expenses (Disbursements)

Were Taxes Paid at Time Merchandise was Purchased? Yes or No (Circle One)
 If you answered yes above.....How much tax was paid at time of Purchase \$ _____

Please attach copy of all receipts.

Date	Payee	Check #	Total Items Purchased (ie. 40 candy bars @ 1.00)	Amount

Total Disbursements: \$0.00

Remaining Inventory	Description
example 10	candy bars **indicate "none" if no inventory remaining

Profit (Loss) \$0.00

Club Treasurer _____ Advisor _____ Date _____

In accordance with Finance Pamphlet No. 2, the Safeguarding, Accounting and Auditing of Extraclassroom Activity Funds, 2015 published by the New York State Education Department and Board of Education Policy P5230 Management of Student Activity Funds, any Extra-Class Activity Fund which has ceased to exist (as in the case of a graduating class) must have instruction as to what to do with remaining funds or the balance remaining will be transferred to the student government account.

The class advisor should conduct a meeting prior to the end of the school year to determine instructions for any remaining balance in the account. Please complete this letter choosing one of the two options available for dissolution of funds. This letter should be signed by the advisor and class officers and a copy should be kept in the club records and also returned to the central treasurer, (Laura Weaver in the High School)

The class of _____ has convened a meeting on _____ and determined any remaining fund balance after all taxes and expenses have been paid should be:

Please check one box.

_____ 1. Used to purchase _____

_____ 2. Donated to the _____

Class Advisor(s)

Class President

Class Treasurer



New York State Department of Taxation and Finance
New York State and Local Sales and Use Tax
Resale Certificate

ST-120
(1/11)

Name of seller Burnt Hills-Ballston Lake Central School District			Name of purchaser		
Street address 845 State Route 50 #1389			Street address		
City Burnt Hills, NY	State NY	ZIP code 12027	City	State	ZIP code

Mark an X in the appropriate box: Single-use certificate Blanket certificate
 Temporary vendors must issue a single-use certificate.

To the purchaser:
 You may not use this certificate to purchase items or services that are not for resale. If you purchase tangible personal property or services for resale, but use or consume the tangible personal property or services yourself in New York State, you must report and pay the unpaid tax directly to New York State. Any misuse of this certificate will result in tax liabilities and substantial penalty and interest.

Purchaser information — *please type or print*
 I am engaged in the business of Student Fundraising and principally sell n/a
 (Contractors may not use this certificate to purchase materials and supplies.)

Part 1 – To be completed by registered New York State sales tax vendors

I certify that I am:

- a New York State vendor (including a hotel operator or a dues or admissions recipient), show vendor or entertainment vendor. My valid *Certificate of Authority* number is 14-6001287-01
- a New York State temporary vendor. My valid *Certificate of Authority* number is _____ and expires on _____

I am purchasing:

- A. Tangible personal property (other than motor fuel or diesel motor fuel)
 - for resale in its present form or for resale as a physical component part of tangible personal property;
 - for use in performing taxable services where the property will become a physical component part of the property upon which the services will be performed, or the property will actually be transferred to the purchaser of the taxable service in conjunction with the performance of the service; or
- B. A service for resale, including the servicing of tangible personal property held for sale.

Part 2 – To be completed by non-New York State purchasers

I certify that I am not registered nor am I required to be registered as a New York State sales tax vendor. I am registered to collect sales tax or value added tax (VAT) in the following state/jurisdiction _____ and have been issued the following registration number _____ (If sales tax or VAT registration is not required and a registration number is not issued by your home jurisdiction, indicate the location of your business and write **not applicable** on the line requesting the registration number.)

I am purchasing:

- C. Tangible personal property (other than motor fuel or diesel motor fuel) for resale, and it is being delivered directly by the seller to my customer or to an unaffiliated fulfillment services provider in New York State.
- D. Tangible personal property for resale that will be resold from a business located outside New York State.

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Type or print name and title of owner, partner, or authorized person of purchaser _____, Extra Class Advisor	
Signature of owner, partner, or authorized person of purchaser	Date prepared

Substantial penalties will result from misuse of this certificate.

Instructions

Form ST-120, *Resale Certificate*, is a sales tax exemption certificate. **This certificate is only for use by a purchaser who:**

- A – is registered as a New York State sales tax vendor and has a valid *Certificate of Authority* issued by the Tax Department and is making purchases of tangible personal property (other than motor fuel or diesel motor fuel) or services that will be resold or transferred to the purchaser's customers, or
- B – is not required to be registered with the New York State Tax Department;
 - is registered with another state, the District of Columbia, a province of Canada, or other country, or is located in a state, province, or country which does not require sellers to register for sales tax or VAT purposes; and
 - is purchasing items for resale that will be either:
 - 1) delivered by the seller to the purchaser's customer or to an unaffiliated fulfillment service provider located in New York State, or
 - 2) delivered to the purchaser in New York State, but resold from a business located outside the state.

Note: For purposes of 1) above, delivery by the seller includes delivery in the seller's own vehicle or by common carrier, regardless of who arranges for the transportation.

Non-New York State purchasers: registration requirements

If, among other things, a purchaser has any place of business or salespeople in New York State, or owns or leases tangible personal property in the State, the purchaser is required to be registered for New York State sales tax.

A business must register (unless the business can rebut the statutory presumption as described in TSB-M-08(3.1)S, *Additional Information on How Sellers May Rebut the New Presumption Applicable to the Definition of Sales Tax Vendor as Described in TSB-M-08(3)S*) for New York State sales tax if the business enters into agreements with residents of New York State under which the residents receive consideration for referring potential customers to the business by links on a Web site or otherwise, and the value of the sales in New York State made by the business through those agreements totals more than \$10,000 in the preceding four sales tax quarters. See TSB-M-08(3)S, *New Presumption Applicable to Definition of Sales Tax Vendor*, and TSB-M-08(3.1)S.

Also see TSB-M-09(3)S, *Definition of a Sales Tax Vendor is Expanded to Include Out-of-State Sellers with Related Businesses in New York State*, for information on sales tax registration requirements for out-of-state businesses with New York affiliates.

A purchaser who is not otherwise required to be registered for New York State sales tax may purchase fulfillment services from an **unaffiliated** New York fulfillment service provider and have its tangible personal property located on the premises of the provider without being required to be registered for sales tax in New York State.

If you need help determining if you are required to register because you engage in activity in New York State, contact the department (see *Need help?*).

If you meet the registration requirements and engage in business activities in New York State without possessing a valid *Certificate of Authority*, you will be subject to penalty of up to \$500 for the first day on which you make a sale or purchase, and up to \$200 for each additional day, up to a maximum of \$10,000.

Limitations on use

Contractors cannot use this certificate. They must either:

- issue Form ST-120.1, *Contractor Exempt Purchase Certificate*, if the tangible personal property being purchased qualifies for exemption as specified by the certificate, or
- issue Form AU-297, *Direct Payment Permit*, or
- pay sales tax at the time of purchase.

Contractors are entitled to a refund or credit of sales tax paid on materials used in repairing, servicing or maintaining real property, if the materials are transferred to the purchaser of the taxable service in conjunction with the performance of the service. For additional information, see Publication 862, *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*.

To the Purchaser

Enter all the information requested on the front of this form.

You may mark an **X** in the *Blanket certificate* box to cover all purchases of the same general type of property or service purchased for resale. If you do not mark an **X** in the *Blanket certificate* box, the certificate will be deemed a *Single-use certificate*. Temporary vendors may not issue a blanket certificate. A *temporary vendor* is a vendor (other than a show or entertainment vendor), who, in no more than two consecutive quarters in any 12-month period, makes sales of tangible personal property or services that are subject to tax.

This certificate does not exempt prepaid sales tax on cigarettes. This certificate may not be used to purchase motor fuel or diesel motor fuel.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the Seller

If you are a New York State registered vendor and accept an exemption document, you will be protected from liability for the tax, if the certificate is valid.

The certificate will be considered valid if it was:

- accepted in good faith;
- in the vendor's possession within 90 days of the transaction; and
- properly completed (all required entries were made).


A certificate is accepted in good faith when a seller has no knowledge that the exemption certificate is false or is fraudulently given, and reasonable ordinary due care is exercised in the acceptance of the certificate.


You must get a properly completed exemption certificate from your customer no later than 90 days after the delivery of the property or the performance of the service. When you receive a certificate after the 90 days, both you and the purchaser are subject to the burden of proving that the sale was exempt, and additional documentation may be required. An exemption certificate received on time that is not properly completed will be considered satisfactory if the deficiency is corrected within a reasonable period. You must also maintain a method of associating an invoice (or other source document) for an exempt sale made to a customer with the exemption certificate you have on file from that customer.


Invalid exemption certificates – Sales transactions which are not supported by valid exemption certificates are deemed to be taxable retail sales. The burden of proof that the tax was not required to be collected is upon the seller.

Retention of exemption certificates - You must keep this certificate for at least three years after the due date of the return to which it relates, or the date the return was filed, if later.

Need help?

 **Internet access: www.tax.ny.gov**
(for information, forms, and publications)

 **Sales Tax Information Center:** (518) 485-2889
To order forms and publications: (518) 457-5431

 **Text Telephone (TTY) Hotline**
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082